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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,787	03/23/2001	Adam M. Fermier	4650/0H805	5551
7278	7590	08/30/2004	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			KIM, YOUNG J	
			ART UNIT	PAPER NUMBER
			1637	

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/816,787	<b>Applicant(s)</b> FERMIER ET AL.	
	<b>Examiner</b> Young J. Kim	<b>Art Unit</b> 1637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-16, 18-32 and 34-36 is/are allowed.
- 6) ☒ Claim(s) 17 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This Office Action responds the Amendment received on June 14, 2004.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities: Applicants' attention is directed to claim 1, wherein the semi-colon following after the phrase, "over a time period of the study" appears to be underlined.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Danssaert et al. (U.S. Patent No. 5,525,300, issued June 11, 1996).

Applicants are reminded that claim 17 was inadvertently left out in the previous Office Action. Upon careful reconsideration, Danssaert et al. anticipates the invention as claimed for the following reasons.

The system disclosed by Danssaert et al. comprises: a) a plurality of reaction blocks (Figure 1, components 3, 17, 18, and 19), wherein at least one of the blocks is a hot reaction block and at least one of the blocks is a cold reaction block (Figure 3), wherein a reaction vessel (Figure 1, component 20) has a plurality of openings formed therein; b) a robotic arm which transfers the reaction vessels from one hot reaction block to one cold reaction block (Figure 1;

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column 1, lines 29-35; column 4, lines 35-42; column 5, lines 42-45); and c) a controller having a user interface for inputting temperature and sampling interval, the controller in communication with the blocks and robotic device (column 5, lines 25-42). The apparatus of Danssaert et al. conducts PCR (polymerase chain reaction) which is considered to be non-isothermal reaction (column 7). With regard to the apparatus of Danssaert et al., as well as most of the thermocycler, display the cycle times and their corresponding temperature at said cycle (Figure 1, component 16), "*rendering instant claim 17 anticipated.*" (the phrase in quotation marks were from the previous Office Action which demonstrates that the omission of the instant claim was inadvertent).

Therefore, the invention as claimed is anticipated by Danssaert et al.

### *Inquiries*

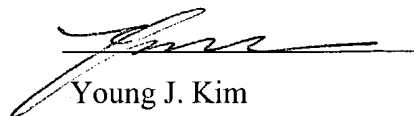
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Young J. Kim whose telephone number is (571) 272-0785. The Examiner can normally be reached from 8:30 a.m. to 6:00 p.m. Monday through Thursday. If attempts to reach the Examiner by telephone are unsuccessful, the Primary Examiner in charge of the prosecution, Dr. Kenneth Horlick, can be reached at (571) 272-0784. If the attempts to reach the above Examiners are unsuccessful, the Examiner's supervisor, Gary Benzion, can be reached at (571) 272-0782. Papers related to this application may be submitted to Art Unit 1637 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant does submit a paper by FAX, the original copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office. All official documents must be sent to the Official Tech Center Fax number: (703) 872-9306. For Unofficial documents, faxes can be sent directly to the Examiner at (571) 273-0785. Any inquiry of a

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general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.



Young J. Kim  
Patent Examiner  
Art Unit 1637  
8/26/04

**YOUNG J. KIM  
PATENT EXAMINER**

yjk